

Notice of Allowability	Application No.	Applicant(s)	
	09/884,289	BRANNOCK, KIRK D.	
	Examiner	Art Unit	
	Ramy M. Osman	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed January 9, 2006.
2. ☒ The allowed claim(s) is/are 1-8,11,13,15 and 22-30.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

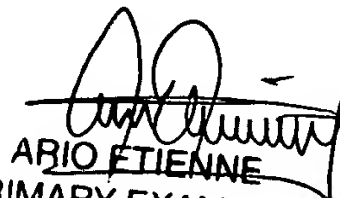
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |


ARJO ETIENNE
 PRIMARY EXAMINER

DETAILED ACTION

Status of Claims

1. This communication is responsive to amendment filed on January 9, 2006, where applicant amended claims 1,3-5,8,11,13,15,22,24,25,26,29 and 30. Claims 9,10,12,14 and 16 were cancelled.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
- I. Claims 1-8,11,13,15,22-30, drawn to remote data accessing, classified in class 709, subclass 217.
 - II. Claim 17-21, drawn to loading initialization program, classified in class 713, subclass 2.
3. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because retrieving remote data is not dependent upon updating firmware code. The subcombination has separate utility of loading initialization program for updating firmware code.
4. During a telephone conversation with Corey Clasen on February 22, 2006 a provisional election was made without traverse to prosecute the invention of Group I, claims. Affirmation of this election must be made by applicant in replying to this Office action. Claims 17-21 is

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withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

EXAMINER'S AMENDMENT

5. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Corey Clasen on February 22, 2006.

The application has been amended as follows:

Claim 15 (Amended): The method of claim 14 13, wherein the first FV interface protocol instance comprises a software abstraction that enables consumers of firmware to access the first firmware volume without requiring those consumers to know where or how the firmware code is stored in the first firmware volume

Claims 17-21: (Withdrawn)

Allowable Subject Matter

6. Claims 1-8,11,13,15,22-30 are allowed.

7. For reasons of allowance, refer to page 8 of Non-Final Office Action dated October 5, 2005, which indicated the allowability of dependent claims if re-written into the independent claims. The indicated limitations are not found in the prior art of record.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Patent Application Publication No. US 20030066062A1, Brannock et al updating plurality of files.

Patent No. US007003659B2, Rich et al teaches reliable booting of a computer system.

Patent No. US006848046B2, Zimmer teaches loading software drivers or firmware volumes into a microprocessor for execution during boot-service mode.

Patent No. US006775728B2, Zimmer teaches executing event handlers during execution.

Patent No. US006275931B1, Narayanaswamy et al teaches upgrading firmware boot code.

Patent No. US005805882A, Cooper et al teaches replacing corrupt boot code with new boot code from an external source.

Patent No. US005964873A, Choi teaches updating a ROM BIOS.

Patent No. US006438688B1, Nunn teaches updating BIOS.

Patent No. US006732267B1, Wu et al teaches remote BIOS updates.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramy M. Osman whose telephone number is (571) 272-4008. The examiner can normally be reached on M-F 9-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RMO

March 2, 2006


ARIO ETIENNE
PRIMARY EXAMINER